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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

| | | |
|---|---|----------------------------|
| NATIVE VILLAGE OF NUIQSUT <i>et al.</i> , |) | |
| |) | |
| <i>Plaintiffs,</i> |) | |
| |) | |
| v. |) | Case No. 3:19-cv-00056-SLG |
| |) | |
| BUREAU OF LAND MANAGEMENT <i>et al.</i> , |) | |
| |) | |
| <i>Defendants,</i> |) | |
| |) | |
| and |) | |
| |) | |
| CONOCOPHILLIPS ALASKA, INC., |) | |
| |) | |
| <i>Intervenor-Defendant.</i> |) | |
| |) | |

**MOTION TO TAKE JUDICIAL NOTICE OF SUPPLEMENTAL FACTUAL
MATERIALS PURSUANT TO L. CIV. R. 7.1(d)(2) & L. CIV. R. 7.3(d)**

While the information before the Court fully supports Plaintiffs’ argument that this case is not moot, additional factual information has become available that further confirms that BLM’s deficient authorization of winter exploration in the Reserve is likely to recur. In briefing on cross-motions for summary judgment, BLM and ConocoPhillips asserted that Plaintiffs’ challenge to BLM’s authorization of ConocoPhillips’ 2018-19 winter exploration program is moot. Doc. 30 at 14-20; Doc. 31 at 16-18. In reply, Plaintiffs explained that this case is not moot because BLM’s authorization is capable of repetition yet evades review. Doc. 33 at 6-11. Plaintiffs request that the Court take judicial notice of supplemental information, attached as exhibits 1 through 3, that further supports Plaintiffs’ arguments.

These materials demonstrate the following: On October 11, 2019, BLM posted “ConocoPhillips 2019-20 Exploration” to its ePlanning page. Ex. 1. As BLM acknowledges, this upcoming exploration program “is similar to exploration programs completed in the [Reserve] in previous winter seasons.” Ex. 2 at 2. The program will occur in the same general area as ConocoPhillips’ 2018-19 winter exploration program, *compare* Ex. 3, *with* AR 26 at 8475, and it will be similar in scale, *compare* Ex. 2 at 1-4, *with* AR 26 at 8482-8484. As it has done in previous years, BLM plans to prepare an environmental assessment. *See* Ex. 1. And, this review will again occur on a short timeline: “The EA is expected to be complete about November 8. At that time there will be a 2 week comment period on the EA.” Ex. 1.

Good cause exists to consider this information because it is directly relevant to a critical question raised in the parties' summary judgment motions, and the material was unavailable when this matter was taken under advisement on September 20, 2019. *See* L. Civ. R. 7.1(d)(2). The Court may take judicial notice of these materials because they are matters of public record, whose accuracy cannot reasonably be questioned. *See* Fed. R. Evid. 201(b)(2); *Harris v. Cnty. of Orange*, 682 F.3d 1126, 1131-32 (9th Cir. 2012).

Respectfully submitted this 21st day of October, 2019.

s/ Rebecca Noblin

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CERTIFICATE OF COMPLIANCE WITH WORD LIMITS

I certify that this document contains 338 words, excluding items exempted by L. Civ. R. 7.4(a)(4), and complies with the word limits of L. Civ. R. 7.1(d).

Respectfully submitted this 21st day of October, 2019.

s/ Rebecca Noblin

Rebecca Noblin

TABLE OF EXHIBITS

| Exhibit No. | Description |
|-------------|--|
| 1 | BLM, NEPA ePlanning, DOI-BLM-AK-R000-2020-0001-EA, ConocoPhillips 2019-20 Exploration (Oct. 2019), https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=1502011 |
| 2 | BLM, Updated Proposed Action (Oct. 2019) |
| 3 | ConocoPhillips, 2020 NPR-A Exploration and Appraisal Map (Sept. 2019) |